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10 || Attorneys for Plaintiff, Kenny Schaff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Kenny Schaff,

Case No.: '12CV1420 L JMA

Plaintiff,

18 | VS.

COMPLAINT FOR DAMAGES
1. VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT,
15 U.S.C. § 1692 ET. SEQ;
2. VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT,
CAL.CIV.CODE § 1788 ET. SEO.

Defendants

JURY TRIAL DEMANDED

1 For this Complaint, the Plaintiff, Kenny Schaff, by undersigned counsel, states
2 as follows:

3
4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt
6 Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of
7 Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to
8 collect a consumer debt.

9
10 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

11
12 3. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), in that
13 Defendants transact business here and a substantial portion of the acts giving rise to
14 this action occurred here.

15
16
17 **PARTIES**

18 4. The Plaintiff, Kenny Schaff (hereafter "Plaintiff"), is an adult individual
19 residing at Santee, California, and is a "consumer" as the term is defined by 15 U.S.C.
20 § 1692a(3).

21
22 5. The Defendant, Medicredit, Inc. (hereafter "Medicredit"), is a company
23 with an address of 3620 Interstate 70 Drive SE, Columbia, Missouri 65201-6582,
24 operating as a collection agency, and is a "debt collector" as the term is defined by 15
25 U.S.C. § 1692a(6).

6. Does 1-10 (the “Collectors”) are individual collectors employed by Medicredit and whose identities are currently unknown to the Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

7. Medicredit at all times acted by and through one or more of the Collectors.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

8. The Plaintiff allegedly incurred a financial obligation (the “Debt”) to an original creditor (the “Creditor”).

9. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

10. The Debt was purchased, assigned or transferred to Medicredit for collection, or Medicredit was employed by the Creditor to collect the Debt.

11. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

1 **B. Medicredit Engages in Harassment and Abusive Tactics**

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3 12. Within the last year, the Defendants contacted the Plaintiff in an attempt
4 to collect the Debt.

5

6 13. Medicredit spoke with Plaintiff's girlfriend, a third party, about the Debt
7 and its attempts to collect the Debt.

8

9 14. Plaintiff reached an arrangement in which he would satisfy the Debt in
10 full for \$1600 (the "Agreement"). Pursuant to the Agreement, Plaintiff was going to
11 contact Medicredit the following month once he could save enough money to pay the
12 \$1600.

13

14 15. Pursuant to the Agreement, Plaintiff contacted Medicredit the following
15 month to advise that he had saved the amount of \$1600 and wanted to pay the Debt.

16

17 16. Medicredit then demanded that Plaintiff pay \$1900 despite the
18 Agreement to accept \$1600 for payment in full of the Debt. Plaintiff reminded
19 Medicredit of the terms of the Agreement, but Medicredit refused to

20

21 17. Plaintiff is informed and believes and thereon alleges that the Debt is past
22 the statute of limitations.

23

24 18. Medicredit failed to advise Plaintiff that the Debt was past the statute of
25 limitations.

C. Plaintiff Suffered Actual Damages

19. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

20. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

21. The Defendants' conduct was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692, et seq.

22. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

23. The Defendants caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass, in violation of 15 U.S.C. § 1692d(5).

24. Defendants used an unfair and unconscionable means to collect the debt, in violation of 15 U.S.C. § 1692e.

25. The Defendants misrepresented the character and legal status of the debt, in violation of 15 U.S.C. § 1692e(2).

26. The Defendants employed false and deceptive means to collect a debt, in violation of 15 U.S.C. § 1692e(10).

27. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

28. The Plaintiff is entitled to damages as a result of the Defendants' violations.

COUNT II

29. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

30. The Rosenthal Fair Debt Collection Practices Act, California Civil Code section 1788 et seq. (“Rosenthal Act”) prohibits unfair and deceptive acts and practices in the collection of consumer debts.

31. Medicredit, Inc., in the regular course of business, engages in debt collection and is a “debt collector” as defined by Cal. Civ. Code § 1788.2(c).

32. The Defendants caused a telephone to ring repeatedly and engaged the Plaintiff in continuous conversations with an intent to annoy the Plaintiff, in violation of Cal. Civ. Code § 1788.11(d).

33. The Defendants communicated information about the debt to the Plaintiff's extended family, without the intent of confirming the Plaintiff's location and without consent from the Plaintiff or the Plaintiff's attorney, in violation of Cal. Civ. Code § 1788.12(b).

34. The Defendants did not comply with the provisions of Title 15, Section 1692 of the United States Code, in violation of Cal. Civ. Code § 1788.17.

35. The Plaintiff is entitled to damages as a result of the Defendants' violations.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the

Defendants:

B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A)

against the Defendants:

C. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C.

§ 1692k(a)(3) against the Defendants;

D. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);

E. Statutory damages of \$1,000.00 for knowingly and willfully committing violations pursuant to Cal. Civ. Code § 1788.30(b);

1 F. Actual damages from the Defendants for the all damages including
2 emotional distress suffered as a result of the intentional, reckless, and/or
3 negligent FDCPA violations and intentional, reckless, and/or negligent
4 invasions of privacy in an amount to be determined at trial for the
5 Plaintiff;
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7 G. Punitive damages; and
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9 H. Such other and further relief as may be just and proper.

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11 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
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13

14 DATED: June 12, 2012

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17 By: _____
18 Tammy Hussin, Esq.
19 Lemberg & Associates
20 Attorney for Plaintiff, Kenny Schaff
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